

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK ADDING
CHAPTER 71 “HUMAN RIGHTS” TO PROHIBIT DISCRIMINATION BASED ON
AGE, RACE, COLOR, CREED, PREGNANCY, RELIGION, NATIONAL ORIGIN,
ANCESTRY, DISABILITY, MARITAL STATUS, SEX, SEXUAL ORIENTATION,
GENDER IDENTITY OR PHYSICAL CHARACTERISTIC AND TO EXTEND THIS
PROTECTION TO EMPLOYMENT, HOUSING AND REAL ESTATE
TRANSACTIONS AND PUBLIC ACCOMMODATIONS.

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the City of College Park, Maryland (hereinafter, the “City”) has the power to pass such ordinances as it deems necessary to assure the good government of the municipality, and to protect and preserve the municipality’s property; and

WHEREAS, the Mayor and Council have determined there is a need to prohibit discrimination on the basis of race, color, religion, ancestry, national origin, age, sex, marital status, disability, sexual orientation, and gender identity with respect to employment, housing, credit, and public accommodations in the City; and

WHEREAS, the City has the responsibility to act to assure that every individual within the state is afforded an equal opportunity to enjoy a full and productive life, and the failure to provide such equal opportunity, whether because of discrimination, prejudice, or intolerance, threatens the welfare of the City and its inhabitants.

Section 1. **NOW, THEREFORE, BE IT ORDAINED AND ENACTED**, by the Mayor and Council of the City of College Park, Maryland, that Chapter 71 “Human Rights”, of the Code of the City of College Park be, and is hereby, adopted to read as follows:

Chapter 71

CAPS
[Brackets]
Asterisks * * *

: Indicate matter added to existing law.
: Indicate matter deleted from law.
: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

Human Rights

§71-1. PURPOSE AND INTENT.

IT IS THE INTENT OF THE MAYOR AND CITY COUNCIL TO PROTECT AND SAFEGUARD THE RIGHT AND OPPORTUNITY OF ALL PERSONS TO BE FREE FROM ALL FORMS OF DISCRIMINATION, INCLUDING DISCRIMINATION BASED ON AGE, RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, MARITAL STATUS, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR PHYSICAL CHARACTERISTIC. THOSE PROVISIONS OF SUBTITLE 2, "ADMINISTRATION", DIVISION 12, "HUMAN RELATIONS COMMISSION", SEC. 2-185 *ET SEQ.*, OF THE PRINCE GEORGE'S COUNTY CODE NOT IN CONFLICT WITH THIS CHAPTER WILL CONTINUE TO APPLY IN THE CITY.

§71-2. DEFINITIONS.

A. "DISABILITY" OR "DISABLED" SHALL MEAN, WITH RESPECT TO AN INDIVIDUAL: A PHYSICAL OR MENTAL IMPAIRMENT; A RECORD OF SUCH AN IMPAIRMENT; OR BEING REGARDED AS HAVING SUCH AN IMPAIRMENT.

B. "DISCRIMINATE, DISCRIMINATION OR DISCRIMINATORY" SHALL MEAN ANY ACT, POLICY, ADVERTISEMENT OR PRACTICE WHICH SUBJECTS ANY PERSON TO DIFFERENTIAL TREATMENT AS A RESULT OF THAT PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, CREED, RELIGION, NATIONAL ORIGIN, ANCESTRY, DISABILITY, AGE, MARITAL STATUS, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR PHYSICAL CHARACTERISTIC. DISCRIMINATION ALSO INCLUDES ANY DIFFERENTIAL TREATMENT BECAUSE OF ONE'S ASSOCIATION WITH A PERSON OR GROUP OF PEOPLE IDENTIFIED HEREIN.

C. "EMPLOYEE" SHALL MEAN ANY INDIVIDUAL EMPLOYED OR SEEKING EMPLOYMENT FROM AN EMPLOYER;

D. "EMPLOYER" SHALL MEAN ANY PERSON WHO, FOR COMPENSATION, REGULARLY EMPLOYS INDIVIDUALS, NOT INCLUDING THE EMPLOYER'S PARENTS, SPOUSE OR CHILDREN. FOR PURPOSES OF THIS CHAPTER, AN "EMPLOYER" IS ALSO ANY PERSON ACTING ON BEHALF OF AN EMPLOYER, DIRECTLY OR INDIRECTLY, OR ANY EMPLOYMENT AGENCY.

E. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY, APPEARANCE,

EXPRESSION, OR BEHAVIOR OF A PERSON, REGARDLESS OF THE PERSON'S ASSIGNED SEX AT BIRTH, WHICH MAY BE DEMONSTRATED BY:

1. CONSISTENT AND UNIFORM ASSERTION OF THE PERSON'S 8 GENDER IDENTITY; OR

2. ANY OTHER EVIDENCE THAT THE GENDER IDENTITY IS SINCERELY HELD AS PART OF THE PERSON'S CORE IDENTITY.

F. "PERSON" SHALL MEAN ANY NATURAL PERSON, FIRM, CORPORATION, PARTNERSHIP OR OTHER ORGANIZATION, ASSOCIATION OR GROUP OF PERSONS HOWEVER ARRANGED.

G. "PHYSICAL CHARACTERISTIC" SHALL MEAN A BODILY CONDITION OR BODILY CHARACTERISTIC OF ANY PERSON WHICH IS FROM BIRTH, ACCIDENT, OR DISEASE, OR FROM ANY NATURAL PHYSICAL DEVELOPMENT, OR ANY OTHER EVENT OUTSIDE THE CONTROL OF THAT PERSON INCLUDING INDIVIDUAL PHYSICAL MANNERISMS, HEIGHT, OR WEIGHT.

H. "PLACE OF PUBLIC ACCOMMODATION" SHALL MEAN ALL ESTABLISHMENTS WITHIN THE CITY WHICH OFFER GOODS, SERVICES, ACCOMMODATIONS, OR ENTERTAINMENT TO THE PUBLIC.

I. "SEXUAL ORIENTATION" SHALL MEAN A PERSON'S ACTUAL OR PERCEIVED HETEROSEXUALITY, HOMOSEXUALITY, ASEXUALITY, OR BISEXUALITY.

§71-3. PROHIBITED ACTS OF DISCRIMINATION - - EMPLOYMENT

WITH REGARD TO EMPLOYMENT, IT SHALL BE UNLAWFUL FOR ANY EMPLOYERS OR LABOR ORGANIZATIONS TO ENGAGE IN ANY OF THE FOLLOWING ACTS FOR A DISCRIMINATORY REASON:

A. TO DISCRIMINATE AGAINST ANY INDIVIDUAL, WITH RESPECT TO FAILURE TO HIRE, REFUSAL TO HIRE, DISCHARGE, COMPENSATION, TERMS, CONDITIONS, OR PRIVILEGES OF EMPLOYMENT, INCLUDING PROMOTION; HOWEVER NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO REQUIRE ANY EMPLOYER TO PROVIDE BENEFITS, SUCH AS INSURANCE, TO INDIVIDUALS NOT EMPLOYED BY THE EMPLOYER;

- B. TO LIMIT, SEGREGATE, OR CLASSIFY EMPLOYEES IN ANY WAY WHICH WOULD DEPRIVE OR TEND TO DEPRIVE ANY EMPLOYEE OF EMPLOYMENT OPPORTUNITIES, OR WHICH WOULD OTHERWISE TEND TO ADVERSELY AFFECT HIS OR HER STATUS AS AN EMPLOYEE; OR
- C. TO FAIL OR REFUSE TO REFER FOR EMPLOYMENT, OR TO GIVE NEGATIVE INFORMATION TO A POTENTIAL EMPLOYER OF ANY INDIVIDUAL, IN SUCH A MANNER THAT WOULD DEPRIVE OR LIMIT AN INDIVIDUAL'S EMPLOYMENT OPPORTUNITIES OR THAT WOULD OTHERWISE ADVERSELY AFFECT AN INDIVIDUAL'S STATUS AS AN APPLICANT OR PROSPECTIVE EMPLOYEE.
- D. THIS SECTION DOES NOT PREVENT AN EMPLOYER FROM ESTABLISHING AND REQUIRING AN EMPLOYEE TO ADHERE TO REASONABLE WORKPLACE APPEARANCE, GROOMING, AND DRESS STANDARDS THAT ARE DIRECTLY RELATED TO THE NATURE OF THE EMPLOYMENT OF THE EMPLOYEE AND THAT ARE NOT PRECLUDED BY ANY PROVISION OF STATE OF FEDERAL LAW, AS LONG AS THE EMPLOYER ALLOWS THE EMPLOYEE TO APPEAR, GROOM AND DRESS CONSISTENT WITH THE EMPLOYEE'S GENDER IDENTITY.

§71-4. PROHIBITED ACTS OF DISCRIMINATION - - HOUSING AND REAL ESTATE TRANSACTIONS.

WITH REGARD TO HOUSING AND REAL ESTATE TRANSACTIONS, IT SHALL BE UNLAWFUL TO ENGAGE IN ANY OF THE FOLLOWING ACTS FOR A DISCRIMINATORY REASON:

- A. TO DISCRIMINATE BY IMPEDING, DELAYING, DISCOURAGING, IMPOSING DIFFERENT TERMS, OR OTHERWISE LIMITING OR RESTRICTING ANY TRANSACTION IN REAL ESTATE;
- B. TO DISCRIMINATE IN THE TERMS AND CONDITIONS, OR IN PERFORMING, OR REFUSING TO PERFORM, ANY ACT NECESSARY TO DETERMINING AN INDIVIDUAL'S FINANCIAL ABILITY TO ENGAGE IN A REAL ESTATE TRANSACTION OR TO REPRESENT FALSELY THAT AN INTEREST IN REAL ESTATE IS NOT AVAILABLE FOR TRANSACTION;
- C. FOR A PROPERTY MANAGER TO DISCRIMINATE BY REFUSING TO PROVIDE EQUAL TREATMENT OF, OR SERVICES TO, OCCUPANTS OR POTENTIAL OCCUPANTS OF ANY REAL ESTATE WHICH HE OR SHE MANAGES; OR

D. IT SHALL NOT BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN OWNER, LESSOR OR RENTER TO REFUSE TO RENT, LEASE OR SUBLEASE A PORTION OF A SINGLE FAMILY DWELLING UNIT WHERE IT IS ANTICIPATED THAT THE OWNER, LESSOR OR RENTER WILL BE OCCUPYING ANY PORTION OF THE SINGLE-FAMILY DWELLING.

§71-5. PROHIBITED ACTS OF DISCRIMINATION - - BUSINESS ESTABLISHMENT OR PUBLIC ACCOMMODATIONS.

IT SHALL BE UNLAWFUL FOR A BUSINESS ESTABLISHMENT OR PLACE OF PUBLIC ACCOMMODATION TO DENY, DIRECTLY OR INDIRECTLY, ANY PERSON THE FULL ENJOYMENT OF THE GOODS, SERVICES, FACILITIES, PRIVILEGES, ADVANTAGES, AND ACCOMMODATIONS FOR A DISCRIMINATORY REASON.

§71-6. POSTING OF NOTICES.

EVERY EMPLOYER, BUSINESS, OR INSTITUTION SUBJECT TO THIS CHAPTER SHALL POST AND KEEP POSTED IN A CONSPICUOUS LOCATION WHERE BUSINESS OR ACTIVITY IS CUSTOMARILY CONDUCTED OR NEGOTIATED, A NOTICE SETTING FORTH EXCERPTS FROM OR SUMMARIES OF THE PERTINENT PROVISIONS OF THIS CHAPTER AND INFORMATION PERTINENT TO THE ENFORCEMENT OF RIGHTS HEREUNDER. THE NOTICE SHALL BE POSTED IN BOTH ENGLISH AND SPANISH. IF OVER TEN PERCENT OF AN EMPLOYER'S EMPLOYEES SPEAK A LANGUAGE OTHER THAN ENGLISH OR SPANISH AS THEIR NATIVE LANGUAGE, THE NOTICE SHALL BE POSTED IN THAT LANGUAGE. AT THE REQUEST OF THE EMPLOYER OR INSTITUTION, NOTICES REQUIRED BY THIS SECTION SHALL BE PROVIDED BY THE CITY. NOTICES SHALL BE POSTED WITHIN TEN (10) DAYS AFTER RECEIPT FROM THE CITY.

§71-7. GENERAL EXCEPTIONS.

- A. IT SHALL NOT BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EMPLOYER TO OBSERVE THE CONDITIONS OF A BONA FIDE SENIORITY SYSTEM OR A BONA FIDE EMPLOYEE BENEFIT SYSTEM BASED ON AGE SUCH AS A RETIREMENT, PENSION OR INSURANCE PLAN WHICH IS NOT A SUBTERFUGE OR PRETEXT TO EVADE THE PURPOSES OF THIS CHAPTER.
- B. NOTHING CONTAINED IN THIS CHAPTER SHALL BE DEEMED TO PROHIBIT SELECTION OR REJECTION BASED SOLELY UPON A BONA FIDE OCCUPATIONAL QUALIFICATION, A BONA FIDE PHYSICAL REQUIREMENT,

OR, AS TO A RELIGIOUS OR DENOMINATIONAL INSTITUTION, BASED UPON A PREFERENCE FOR APPLICANTS OF THE SAME RELIGION OR DENOMINATION.

C. THIS CHAPTER DOES NOT:

1. APPLY TO AN EMPLOYER WITH RESPECT TO THE EMPLOYMENT OF ALIENS OUTSIDE OF THE STATE; OR
2. APPLY TO A RELIGIOUS CORPORATION, ASSOCIATION, EDUCATIONAL INSTITUTION OR SOCIETY WITH RESPECT TO THE EMPLOYMENT OF INDIVIDUALS OF A PARTICULAR RELIGION, SEXUAL ORIENTATION, OR GENDER IDENTITY TO PERFORM WORK CONNECTED WITH THE ACTIVITIES OF THE RELIGIOUS ENTITY.
3. AFFECT THE RIGHT OF ANY RELIGIOUS DENOMINATION TO PERFORM A MARRIAGE CEREMONY IN ACCORDANCE WITH THE RULES AND CUSTOMS OF THE DENOMINATION.

§71-8. ENFORCEMENT.

ANY PERSON WHO IS AGGRIEVED BY DISCRIMINATORY CONDUCT IS ENCOURAGED TO FILE A COMPLAINT WITH THE PRINCE GEORGE'S COUNTY HUMAN RELATIONS COMMISSION AND ALSO WITH THE MARYLAND COMMISSION ON CIVIL RIGHTS UNDER TITLE 20 OF THE STATE GOVERNMENT ARTICLE OF THE MARYLAND ANNOTATED CODE. UPON SUCH COMPLAINT BEING FILED, AN AGGRIEVED PERSON MAY AVAIL HIMSELF OR HERSELF OF THE REMEDIES IN THE ABOVE QUOTED ARTICLE INCLUDING, PURSUANT TO §§20-1013, 20-1035 and 20-1202, THE RIGHT TO FILE AN ACTION IN THE CIRCUIT COURT AGAINST THE RESPONDENTS NAMED IN THE COMPLAINT.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the City of College Park that, upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the City Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the City Clerk and shall publish this proposed ordinance or a fair summary thereof

in a newspaper having a general circulation in the City of College Park together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing, hereby set for ____ P.M. on the ____ day of _____, 2014, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Council may adopt the proposed ordinance with or without amendments or reject it. As soon as practicable after adoption, the City Clerk shall have a fair summary of the Ordinance and notice of its adoption published in a newspaper having a general circulation in the City of College Park and available at the City's offices. This Ordinance shall become effective on _____, 2014 provided that a fair summary of this Ordinance is published at least once prior to the date of passage and once as soon as practical after the date of passage in a newspaper having general circulation in the City.

INTRODUCED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the ____ day of _____ 2014.

ADOPTED by the Mayor and Council of the City of College Park, Maryland at a regular meeting on the ____ day of _____ 2014.

EFFECTIVE the ____ day of _____, 2014.

ATTEST:

CITY OF COLLEGE PARK,

Janeen S. Miller, CMC, City Clerk

Andrew M. Fellows, Mayor

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Suellen M. Ferguson, City Attorney